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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,221	01/02/2004	Keneth K. Cyr	CRNI.111422	6658

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EXAMINER

SEREBOFF, NEAL

ART UNIT	PAPER NUMBER
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3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/750,221

Applicant(s)

CYR ET AL.

Examiner

Neal R. Sereboff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1 – 27 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 19 – 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 19 is directed toward a clinical supply report. A §101 inquiry is directed to the determination of whether the claimed subject matter as a whole is a disembodied mathematical concept representing nothing more than a “law of nature” or an “abstract idea,” or if the mathematical concept has been reduced to some practical application rendering it “useful.” A claimed process that produces a useful, concrete, tangible result without re-empting other uses of the mathematical principle falls within the scope of §101. The claim 19 result of “generating comparative clinical supply reports” is not tangible but represents a disembodied “abstract idea.” Claims 20 through 27 are thus drawn to the abstract idea of generating comparative clinical supply reports, rather than to a practical application of the idea as required by 35 U.S.C. §101.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. **Claims 1 – 27** are rejected under 35 U.S.C. 102(b) as being anticipated by DeBusk et al., U.S. Patent Number 5,682,728 (see reference A on the attached PTO-892).

6. As per claim 1, DeBusk teaches a system for managing clinically related supply procurement according to outcomes, comprising:

- A first interface to receive patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- A second interface to receive clinical outcomes data from the at least one clinically related site (see column 4, lines 30 – 50); and
- An analytic engine, the analytic engine communicating with the first interface and the second interface to generate comparative clinical supply reports based at least on the clinical outcomes data (see column 4, line 66 through column 5 line 5 where the report is a bill of materials).

7. As per claim 2, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the patient supply data comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 4, lines 35 – 50).

8. As per claim 3, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 3, lines 2 – 5).

9. As per claim 4, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the clinical outcomes data comprises at least one of patient

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mortality data, patient morbidity data, patient ambulatory data, patient infection data, patient prescription data, patient length of stay data, patient condition data and patient readmittance data (see column 6, lines 1 – 13 where usage per length of stay is determined).

10. As per claim 5, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the comparative clinical supply reports comprise historical patient outcome comparisons between alternative supply selections (see column 5, lines 64 – 67).

11. As per claim 6, DeBusk teaches the method of claim 5 as described above. DeBusk further teaches the system wherein the historical patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

12. As per claim 7, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the comparative clinical supply reports comprise projected patient outcome comparisons based on alternative supply selections (see column 6, lines 7 – 13).

13. As per claim 8, DeBusk teaches the method of claim 7 as described above. DeBusk further teaches the system wherein the projected patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

14. As per claim 9, DeBusk teaches the method of claim 1 as described above. DeBusk further teaches the system wherein the comparative clinical supply reports comprise reports on clinical outcomes data broken down according to at least one of clinical procedure type, clinical department, patient condition categories, patient demographic categories, vendor information and cost ranges (see column 6, lines 47 – 60 where a patient condition supply report is created).

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15. As per claim 10, DeBusk teaches a method for managing clinically related supply procurement according to outcomes, comprising:

- Receiving patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- Receiving clinical outcomes data from the at least one clinically related site (see column 4, lines 30 – 50); and
- Generating comparative clinical supply reports based at least on the clinical outcomes data (see column 4, line 66 through column 5 line 5 where the report is a bill of materials).

16. As per claim 11, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the patient supply data comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 4, lines 35 – 50).

17. As per claim 12, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 3, lines 2 – 5).

18. As per claim 13, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the clinical outcomes data comprises at least one of patient mortality data, patient morbidity data, patient ambulatory data, patient infection data, patient prescription data, patient length of stay data, patient condition data and patient readmittance data (see column 6, lines 1 – 13 where usage per length of stay is determined).

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19. As per claim 14, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the comparative clinical supply reports comprise historical patient outcome comparisons between alternative supply selections (see column 5, lines 64 – 67).

20. As per claim 15, DeBusk teaches the method of claim 14 as described above. DeBusk further teaches the method wherein the historical patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

21. As per claim 16, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the comparative clinical supply reports comprise projected patient outcome comparisons based on alternative supply selections (see column 6, lines 7 – 13).

As per claim 17, DeBusk teaches the method of claim 16 as described above. DeBusk further teaches the method wherein the projected patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

22. As per claim 18, DeBusk teaches the method of claim 10 as described above. DeBusk further teaches the method wherein the comparative clinical supply reports comprise reports on clinical outcomes data broken down according to at least one of clinical procedure type, clinical department, patient condition categories, patient demographic categories, vendor information and cost ranges (see column 6, lines 47 – 60 where a patient condition supply report is created).

23. As per claim 19, DeBusk teaches a comparative clinical supply report, the comparative clinical supply report being generated according to a method of:

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- Receiving patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- Receiving clinical outcomes data from the at least one clinically related site (see column 4, lines 30 – 50); and
- Generating comparative clinical supply reports based at least on the clinical outcomes data (see column 4, line 66 through column 5 line 5 where the report is a bill of materials).

24. As per claim 20, DeBusk teaches the comparative clinical supply report of claim 19 as described above. Debusk further teaches the comparative clinical supply report wherein the patient supply data comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 4, lines 35 – 50).

25. As per claim 21, DeBusk teaches the comparative clinical supply report of claim 19 as described above. Debusk further teaches the comparative clinical supply report wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 3, lines 2 – 5).

26. As per claim 22, DeBusk teaches the comparative clinical supply report of claim 19 as described above. Debusk further teaches the comparative clinical supply report wherein the clinical outcomes data comprises at least one of patient mortality data, patient morbidity data, patient ambulatory data, patient infection data, patient prescription data, patient length of stay data, patient condition data and patient readmittance data (see column 6, lines 1 – 13 where usage per length of stay is determined).

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27. As per claim 23, DeBusk teaches the comparative clinical supply report of claim 19 as described above. Debusk further teaches the comparative clinical supply report wherein the comparative clinical supply reports comprise historical patient outcome comparisons between alternative supply selections (see column 5, lines 64 – 67).

28. As per claim 24, DeBusk teaches the comparative clinical supply report of claim 23 as described above. Debusk further teaches the comparative clinical supply report wherein the historical patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

29. As per claim 25, DeBusk teaches the comparative clinical supply report of claim 19 as described above. Debusk further teaches the comparative clinical supply report comprising projected patient outcome comparisons based on alternative supply selections (se column 6, lines 7 – 13).

30. As per claim 26, DeBusk teaches the comparative clinical supply report of claim 25 as described above. Debusk further teaches the comparative clinical supply report wherein the projected patient outcome comparisons are based on a combination of at least two supply selections (see column 5, lines 51 – 54 where a supply bundle is made up of multiple supply selections).

31. As per claim 27, DeBusk teaches the comparative clinical supply report of claim 19 as described above. Debusk further teaches the comparative clinical supply report comprising reports on clinical outcomes data broken down according to at least one of clinical procedure type, clinical department, patient condition categories, patient demographic categories, vendor

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information and cost ranges (see column 6, lines 47 – 60 where a patient condition supply report is created).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal R. Sereboff whose telephone number is (571) 270-1373. The examiner can normally be reached on Mon thru Thur from 7:30am to 5pm, with 1st Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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